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ARB. O.P.(Com.Div) No.156 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb. O.P. (Com. Div.) No.156 of 2023

Same Deutz Fahr India Private Ltd.,
Represented by Mr.P.Ramesh
No.72/72M, SIPCOT Industrial Complex,
Ranipet - 632 403,
Tamil Nadu.

...

Petitioner

vs.

Mr.Sonyabapu Narayan Nawale
Proprietor,
M/s.Shree Sai Enterprises
298/1, Yash Chowk,
Pune-Nagar Road,
Karegaon
Ranjangaon MIDC, Tal-Shirur,
Pune,
Maharashtra - 412 220.

Also at :

No.567, At - Karegaon,
Shivtirtha Complex,
Shirur District, Pune, Maharashtra - 412 220.

Also at :

GAT No.1755, Pune Nagar Road,
Near Hotel Archana,
Ranjangaon Ganpati,
Shirur,
Pune,
Maharashtra - 412 220

...

Respondent



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Prayer : Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a sole Arbitrator to adjudicate the dispute between the petitioner and the respondent, and b) direct the respondent to pay the cost of this petition

For petitioner : Ms.Prapti Mehta
For respondent : No appearance

ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator as per the Arbitral Agreement contained under the Dealership Agreement dated 10.01.2019.

2. There seems to be a dispute between the petitioner, who is a Manufacturer and the respondent, who is its Dealer. They have entered into a Dealership Agreement on 10.01.2019 by which, the petitioner had appointed the respondent as its Dealer. In view of the dispute /differences arising out of the Dealership Agreement dated 10.01.2019, the petitioner desires to initiate arbitration in accordance with the Arbitration Clause contained in the agreement. The Arbitration Clause contained in the Dealership Agreement dated 10.01.2019 is extracted hereunder :

J. Dispute Resolution

Any and all disputes, which may arise under, out of, in connection with, or in relation to this Agreement, including



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those as to the application and /or interpretation of this Agreement, or the legal relations and /or mutual rights, performance and obligations of the parties hereunder, shall be resolved through negotiations by the authorised officers or representatives of the Company and the Dealer before seeking outside resolution of the dispute. Those disputes not resolved by negotiations, within thirty(30) days from the date of notification of the disputes, shall be resolved through arbitration by a sole arbitrator to be appointed by the Director of the Company, who may be authorised by the Board of Directors of the Company in this regard. The arbitration proceedings shall be held at Chennai in accordance with the provisions of the Arbitration & Conciliation Act, 1996 as in force in India or any statutory modification or reenactments thereof. The courts at Ranipet /Vellore alone shall have exclusive jurisdiction in all matters arising out of this Agreement.

3. The petitioner has also sent a notice to the respondent on 21.05.2022 calling upon the respondent to pay the money due and payable to them. Thereafter, the petitioner has also invoked arbitration by sending a notice on 05.12.2022 to the respondent. Both the legal notice dated 21.05.2022 as well the arbitration invocation notice dated 05.12.2022 has not been responded. In such circumstances, this petition has been filed seeking for appointment of an Arbitrator.

4. Notice was sent to the respondent in this petition and he has been duly served. His name is also printed in the cause list today. Despite the same, he has chosen not to defend this petition. In view of



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the arbitration agreement available in the Dealership Agreement, dated 10.01.2019, this petition filed under Section 11 for appointment of an Arbitrator is maintainable. Since, the respondent has not responded to the notices sent by the petitioner for accepting arbitration, this Court has to necessarily appoint an Arbitrator, who will have to decide the dispute / differences between the parties on merits and in accordance with law.

5. For the foregoing reasons and in view of the Arbitration clause available under the Dealership Agreement, this Court appoints Mrs.Gladys Rosette C. Daniel, Advocate as the Sole Arbitrator to decide the dispute between the applicant and the respondent. Accordingly, this Arbitration Original Petition is allowed as prayed for by issuing the following directions:

(a) This Court appoints Mrs.Gladys Rosette C. Daniel, Advocate, who is having office at III Floor, YMCA Building, No.223, NSC Bose Road, Chennai - 600 001(Mobile No.9789980909) as a sole Arbitrator to decide the dispute between the petitioner and the respondent arising out of the Dealership Agreement, dated 10.01.2019.



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(b) The Arbitrator shall be paid her remuneration / fees in accordance with the 4th schedule of the Arbitration and Conciliation Act, 1996.

(c) Both the parties shall equally share the arbitrator's fees.

(d) The Arbitrator shall conduct the arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and shall complete the arbitration within the specified time as prescribed under the said Act.

06.07.2023

Note : Issue order copy on 13.07.2023

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Index: Yes/ No

Speaking order / Non speaking order

Neutral citation : Yes / No



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ABDUL QUDDHOSE, J.

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